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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,612	01/21/2004	Christopher A. Donahue	03-5419	5014
39820	7590	07/13/2004	EXAMINER	
EDWARD M. LIVINGSTON, PA 963 TRAIL TERRACE DRIVE NAPLES, FL 34103			MAYO, TARA L	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 07/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,612

Applicant(s)

DONAHUE, CHRISTOPHER A.

Examiner

Tara L. Mayo

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-24 is/are allowed.
- 6) ☒ Claim(s) 25, 26 and 41-46 is/are rejected.
- 7) ☒ Claim(s) 27-40 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>21 Jan 2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to because Figure 1 shows an improperly labeled section line. See 37 C.F. R. 1.84 (h)(3).

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 45 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the pocket closer" on line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 46 is similarly rejected for the recitations of "the end closer" and "the pocket closer" on lines 3 and 4, respectively.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 25, 26, and 42 through 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Deeds (U.S. Patent No. 4,054,132).

Deeds '132, as seen in Figures 1 and 2, discloses a diving-tank-pocket buoyancy compensator comprising:

with regard to claim 25,

a diving-tank pocket (10) having an internal portion that is attachable to a diving tank (32) which the diving tank pocket is articulated for containing in addition to containing an inflatable buoyancy air cell (31) in an inflated mode; and

the diving tank pocket being attachable to a diving chute harness (20);

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with regard to claim 26,

wherein the buoyancy air cell is in fluid communication with the cell end of a BC tube (21) which has a tank end in fluid communication with an inside periphery of the diving tank through a regulator tube (36) and a regulator valve (col. 2, lines 41 through 53) on the diving tank;

with regard to claim 42,

wherein the buoyancy air cell includes an envelope cell (14) that is wrapped onto the diving tank; and

with regard to claim 43,

wherein the buoyancy air cell includes twin cells that are positioned on opposite sides of the diving tank and joined with an umbilical member (the center section of element 31 seen at the top of Figure 2); and

the umbilical member is positioned adjacent to a predetermined portion of the diving tank.

With regard to claim 44, while Deeds '132 is silent with respect to air conveyance between the air cell sections seen in Figure 2, the disclosure teaches only one point of inflation (22; col. 3, lines 49 through 56) for the entire bladder. Therefore, in order for air to fully inflate each section of the air cell (31), air conveyance structure necessarily exists between the twin end cells and the umbilical member.

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deeds (U.S. Patent No. 4,054,132).

Deeds '132 further disclose the diving tank pocket including strips (33) of flexible foam material to prevent tank slippage (col. 2, lines 54 through 58).

Deeds '132 discloses all of the features of the claimed invention with the exception(s) of:
with regard to claim 41,
the flexible structure being neoprene.

With regard to claim 41, it would have been obvious to one having ordinary skill in the art of diving at the time of invention to make the flexible strips shown by Deeds '132 with neoprene since the material is well known and has widespread use in the art for its elastic and weather resistance properties.

Allowable Subject Matter

8. Claims 1 through 24 are allowed.

9. Claims 27 through 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 45 and 46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter:

With regard to claims 1 through 24 and 27 through 40, modification of the device shown by Deeds '132 to include the claimed limitation of a pressure valve intermediate the tank end and the cell end of the BC tube is precluded. Deeds '132 expressly teaches against the same in column 4 n lines 1 through 10.

12. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

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Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TLM

1 July 2004



Thomas B. Will
Supervisory Patent Examiner
Group 3600